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His Own Worst Enemy

By the time Caspar Weinberger formally requested a pardon in a Dec. 18 note to the White House, the case for the pardon had already achieved critical mass, thanks to independent prosecutor Lawrence Walsh. He's been his own worst enemy.

"The one principal person responsible for the pardon was Walsh," said one Weinberger intimate. "Over a period of time, people got tired of him. He kept losing in court. He kept getting angrier."

The pardon bandwagon, which crept along in the early fall, was at full steam in November after two tactical blunders by Walsh: a second indictment four days before the election and the disclosure of \$50,000 mock trials.

The Oct. 30 indictment played into the hands of Republicans who dismissed the entire six-year investigation as a political prosecution. The second indictment not only charged Weinberger with perjury for lying about his knowledge of the Iran-contra scandal but contained a note contradicting claims by Bush that he was "out of the loop" in the secret deal that sent arms to Iran in exchange for American hostages.

Republicans blamed the second indictment for the snuffing out of Bush's rally in the polls and point the finger at lead prosecutor James Brosnahan, who was brought into the case in October to replace Craig Gillen. Brosnahan, a prominent San Francisco attorney who has contributed heavily to Democratic candidates in the past, arrived in Washington with a partisan baggage that Walsh should have anticipated.

Brosnahan quickly stunned Weinberger's attorneys by offering a plea bargain agreement in October under which Weinberger would plead guilty to one felony count. It made no sense.

Walsh had earlier offered Weinberger a plea-bargain deal in which he could have pleaded guilty to a misdemeanor of withholding information from Congress in exchange for testimony implicating others. When Weinberger's lawyers pointed out that his client would have to admit wrongdoing,

Walsh was quick to offer that they "could work out the language."

"Walsh never figured that Cap would have the guts not to plead, or that Bennett would have the guts not to push Cap into blinking," said one Weinberger intimate. "Bennett told Walsh it was a terrible error of judgment to go forward, and if he did they would be in nuclear war . . . that there will be no pleas in this case." Walsh's typical retort was, "Don't put yourself in concrete."

Had Weinberger not been pardoned and stood trial Jan. 5, the defense team's playbook was in place. Joint Chiefs Chairman Colin Powell would have been called as the star witness. "Bennett would have shown that Powell and Weinberger shared information, that they met 10 times a day. Powell would have testified that Weinberger was a fierce advocate, but the straightest arrow he knew and someone who would never lie to Congress. Powell discovered that Weinberger was being kept out of the loop [on illegal arms shipments to Nicaragua]," a source close to the case said.

Walsh's second big mistake was spending more than 50,000 taxpayer dollars to stage a mock trial, complete with hired actors, conference facilities and 38 "jurors" to prepare for the trial. "Here is a guy getting beaten up by [Senate Minority Leader Bob] Dole in how much money he's spending, and they go out and spend this kind of money. It also said something more—'We will do anything and everything to convict Weinberger,'" one former federal prosecutor told us. Mock trials are never used by federal prosecutors in criminal cases.

Since the pardon, Walsh has been hurling unsubstantiated charges like so many pipe bombs—accusing Bush of "misconduct" and a "coverup." Taking on an incumbent U.S. president shouldn't be an afterthought in the eleventh hour of a six-year, \$31-million investigation. It's one of the reasons Walsh is regarded by some as his own worst enemy.

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